

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking on the
Commission's Own Motion into Monitoring
Performance of Operations Support Systems.

Rulemaking 97-10-016
(Filed October 9, 1997)

Order Instituting Investigation on the
Commission's Own Motion into Monitoring
Performance of Operations Support Systems.

Investigation 97-10-017
(Filed October 9, 1997)

**ADMINISTRATIVE LAW JUDGE'S RULING
DENYING AT&T COMMUNICATION OF CALIFORNIA'S REQUEST
FOR A LIMITED STAY IN IMPLEMENTING SECTIONS 3.5 AND 4.3
OF THE AMENDED CHANGE MANAGEMENT PROCESS**

Background

In Decision (D.) 99-11-026,¹ this Commission approved a Joint Settlement Agreement between Pacific Bell (Pacific) and the competitive local exchange carriers (CLECs) on the Change Management Process (CMP) applicable to Pacific's Operational Support Systems. Ordering Paragraph (OP) 7 of the decision provides that if Pacific and a majority of parties present at a quarterly CMP meeting agree to make amendments to the CMP, the sponsoring party is to file that agreement and a copy of the amended CMP with the Commission within 10 days. The sponsor is to serve a copy of the filing on parties to this proceeding

¹ Issued in this docket on November 4, 1999.

within 10 days of the agreement as well. Such an amended CMP will become effective as of the date of the agreement to amend, unless the Commission orders a stay of the change within 30 days of the date it is filed. (OP 8). Any party with good cause can file a protest to this amendment within 10 days of its having been filed with the Commission. (OP 9.)

In March 2001, Pacific advised the Telecommunications Division (TD) that it had reached agreement with a majority of CLECs operating in California to adopt a revised CMP developed for uniform applicability throughout the SBC Communications, Inc. (SBC), 13-state operating area.² Shortly thereafter, TD staff informed Pacific that it should make a formal filing to announce this event in compliance with D.99-11-026. On February 11, 2002, Pacific filed a motion to formally submit this 13-state CMP. Version 1.3 of the 13-state CMP, dated November 30, 2001, was attached to the filing. This is the version of the document that is presently published on Pacific's CLECs web site.

On February 22, 2002, AT&T Communications of California (AT&T) filed an "Opposition to and Protest of" the Pacific motion. In its protest, AT&T argues that Pacific's filing is not timely, and it urges the Commission to stay implementation of Sections 3.5 and 4.3 of the amended CMP. AT&T also requests that the Commission order Pacific to convene a meeting of the CMP

² Letter from Pacific's Cynthia G. Marshall, Vice President – Regulatory & Constituency Relations, to John M. Leutza, Director, TD, dated March 13, 2001. After D.99-11-026 was issued, Pacific's parent company, SBC, continued to expand its local telephone service marketing area, ultimately into 13 states. Creating a uniform CMP process for use within this entire local operating area was a desired efficiency goal for the incumbent carriers and competitors alike.

Drafting Team to resolve issues that the CLECs has with these sections and other aspects of the CMP.

On March 4, 2002, Pacific responded that AT&T had been a party to the agreement; that no other CLECs had opposed or protested its filing of the amended CMP; and that the attendant procedural flaws did not prejudice any party. It urged the denial of AT&T's requests.

Discussion

By letter last March, Pacific indicated that it had reached agreement with the CLECs on amending the CMP. However, neither Pacific nor any other involved party stepped forward as a sponsor of that CMP amendment to formalize it with the Commission, or to explain what subsequently happened. Instead, Pacific attached the amended CMP, dated November 30, 2001, to its February 11th motion.

AT&T does not refute that there was an agreement, nor does it deny that it was a party to it. In fact, in proposing a selective stay,³ AT&T points out that "CMP version 1.3 contains extensive amendments that SBC Pacific and the CLECs community expended a great deal of effort to craft." (AT&T Opposition at 3.) AT&T details four points of opposition to the amended CMP: two issues it appears to have previously discussed with Pacific, and two issues that it raises for the first time. It seeks Commission intervention with respect to these latter issues.

AT&T is correct that February 11, 2002 is far afield from the 10-day requirement under D.99-11-026, no matter which date stands as the effective date

³ Of Sections 3.5 and 4.3.

of the agreement. Still, neither AT&T nor any other interested party has alleged that the timing violation has prejudiced it. Notwithstanding, it is incumbent upon Pacific and all the other parties to follow the process adopted, including the filing timelines, if the CMP is to be effective.

D.99-11-026 permits any party to protest an amendment to the CMP within 10 days of its filing, for good cause.⁴ In this matter, AT&T's deep frustration over Pacific's delay in scheduling this year's first CMP Drafting Team meeting, while understandable, is insufficient cause to justify overriding the remedial process the parties agreed upon and the Commission adopted in the CMP decision. However, I note the futility of being required to initially propose amendments to the CMP during Quarterly CMP Meetings when the related meetings to evaluate them are not regularly scheduled or held. Nevertheless, Pacific asserts that it has scheduled a Drafting Team meeting to address new issues on April 24, 2002. Ostensibly, at that meeting AT&T will be able to raise its issues and resolve or work through the problems with the amended CMP. Hopefully, the meeting will be substantive and productive as specific past meetings have appeared to be. If not, key provisions of the CMP warrant reexamination.

But, at this point neither AT&T nor any other CLECs has directly stated that the process is unworkable. AT&T has highlighted Pacific's nonchalant observance of certain procedural CMP timelines. For its part, Pacific has acknowledged the "procedural irregularity", and proposed to entertain AT&T's new issues. A comparison of the recently filed CMP Sections 3.5 and 4.3 with both Pacific's March 2001 version of the new CMP agreement and its Section 271

⁴ See OP 9. Ironically, AT&T filed its protest of the CMP amendment 11 days after Pacific's filing.

June 2001 compliance filing version of the agreement, indicates that the content of these two sections is identical in all three versions. Thus, it appears that Pacific has filed an accurate representation of what the CLECs agreed to last spring. The April 24, 2002 Drafting Team meeting is the appropriate forum at which AT&T should outline its concerns with the amended CMP.

Accordingly, for the reasons stated herein, **IT IS RULED** that:

1. AT&T Communications of California's (AT&T) February 22, 2002 request to stay implementation of Sections 3.5 and 4.3 of version 1.3 of the amended Change Management Process filed February 11, 2002 by Pacific Bell (Pacific) is denied.
2. AT&T's request that Pacific be ordered to immediately convene a Drafting Team meeting is moot in light of the meeting scheduled for April 24, 2002.

Dated March 13, 2002, at San Francisco, California.

/s/ JACQUELINE A. REED

Jacqueline A. Reed
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge's Ruling Denying AT&T Communication of California's Request for a Limited Stay in Implementing Sections 3.5 and 4.3 of The Amended Change Management Process on all parties of record in this proceeding or their attorneys of record.

Dated March 13, 2002, at San Francisco, California.

/s/ JEANNIE CHANG

Jeannie Chang

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.